IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Gopi Kishan. Versus State of Rajasthan & ors.

S.B. Criminal Misc. Petition No. 198/2005 against the Order dated 31-8-2004 passed by the Family Court, Jodhpur,in Criminal Case No. 53/2002.

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Date of Order: July 06, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. M.R. Goswami, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.
Mr. Pawan Rankawat, for the non-petitioners No.2 and 3.

BY THE COURT:

Heard learned counsel for the parties.

By the instant criminal miscellaneous petition under Section 482 Cr.P.C., the petitioner has assailed the order dated 31-8-2004 passed by the Family Court, Jodhpur, whereby the Family Court awarded interim maintenance @ Rs. 800/- per month in favour of non-petitioner No.2 and @ Rs.400/- per month in favour of non-petitioner No.3, the son of the petitioner.

It is contended by the learned counsel for the petitioner that the petitioner is earning only Rs.600/- per month and, therefore, unable to pay the maintenance to the non-petitioners No.2 and 3. Learned counsel for the non-petitioners

submits that the petitioner is a goldsmith and undertakes the work of goldsmith and his earning is reasonably a good and he can well pay the amount of maintenance awarded by the Family Court.

Awarding interim maintenance @ Rs.800/- per month to maintain an adult person and the maintenance of Rs.400/- per month to a child, cannot be said to be, in any way, excessive. More so, it is an interim maintenance and ultimately it is subject to adjustment when the final order is passed on an application filed by the non-petitioners No.2 and 3 seeking maintenance. It cannot be said that the impugned order would result in manifest injustice or abuse of the process of any Court.

The miscellaneous petition is dismissed. The Family Court is directed to decide the main application filed by the non-petitioners No.2 and 3 under Section 125 Cr.P.C. expeditiously.

(H.R. PANWAR), J.

mcs